

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

TEDDY WAYNE SOLOMON, #25882-077	§	
Plaintiff,	§	
	§	
v.	§	3:10-CV-0530-D
	§	
BARAK OBAMA, et al.,	§	
Defendants.	§	

ORDER

After making an independent review of the pleadings, files, and records in this case, and the the April 2, 2010 findings, conclusions, and recommendation of the magistrate judge, and having considered plaintiff's April 15, 2010 objections, the court concludes that the findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted.

Plaintiff filed a notice of appeal on April 28, 2010. The court is not deprived of jurisdiction to act on the magistrate judge's findings, conclusions, and recommendation, however, because an appeal from an unappealable order does not have this effect. *See United States v. Green*, 882 F.2d 999, 1001 (5th Cir. 1989) (notice of appeal from nonappealable order does not render void for lack of jurisdiction acts of trial court taken in the interval between filing of the notice and dismissal of the appeal); *United States v. Hitchmon*, 602 F.2d 689, 694 (5th Cir. 1979) (en banc) (contrary rule would leave district court powerless to prevent intentional dilatory tactics). The court has the jurisdiction to enter this order and judgment because, although plaintiff purports to appeal from a final judgment, no final judgment has been entered until now. Only the findings, conclusions, and recommendation of the magistrate judge had been entered before plaintiff filed his notice of appeal.

The court therefore dismisses plaintiff's petition by judgment filed today.

SO ORDERED.

May 18, 2010.



SIDNEY A. FITZWATER
CHIEF JUDGE